

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

KELVIN CAIN,

Plaintiff,

v.

JOSEPH BADEN, *et al.*

Defendants.

:
:
:
:
:
:
:
:
:
:
:

CASE NO: 1:10-cv-109 (WLS)

ORDER

Before the Court is a Report and Recommendation from United States Magistrate Judge Thomas Q. Langstaff, filed January 12, 2012. (Doc. 29). It is recommended that Defendant's first Motion to Dismiss (Doc. 21) on Plaintiff's 42 U.S.C. § 1983 claims of Eighth Amendment deliberate indifference to Plaintiff's medical needs (*see* Doc. 1) be **GRANTED**. (Doc. 29 at 10). Judge Langstaff also recommends that Defendants' second Motion to Dismiss for Lack of Prosecution be **DENIED-as-moot**.

The Report and Recommendation provided the Parties with fourteen (14) days¹ from the date of its service to file written objections to the recommendations therein. (*Id.*). The period for filing objections expired on Monday, January 30, 2012; no objections have been filed to date. (*See* Docket).

Upon full review and consideration upon the record, the Court finds that said Report and Recommendation (Doc. 29) should be, and hereby is, **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein. reached herein.

¹ The Parties were given an additional three days because service was made by mail. *See* Fed. R. Civ. P. 6(d) (adding three days to specified period within which a party may act if service is made under Rule 5(b)(2)(C) by mailing process to a party's last known address).

Accordingly, Defendant's Motion to Dismiss (Doc. 21) Plaintiff's 42 U.S.C. § 1983 claims of Eighth Amendment deliberate indifference to Plaintiff's medical needs (*see* Doc. 1) is **GRANTED**. (Doc. 29 at 10). It is further ordered that Defendants' second Motion to Dismiss for Lack of Prosecution is deemed as moot and is **DENIED**.

SO ORDERED, this 24th day of February, 2012.

/s/ W. Louis Sands
THE HONORABLE W. LOUIS SANDS,
UNITED STATES DISTRICT COURT